

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RORY M. WALSH, : **CIVIL ACTION NO. 1:05-CV-0818**

:
Plaintiff : **(Judge Conner)**

:
v. :

**THE UNITED STATES OF
AMERICA, et al.,** :

:
Defendants :

ORDER

AND NOW, this 22nd day of November, 2005, upon consideration of plaintiff's motion (Doc. 36) arguing that he is entitled to default judgment because defendants failed to serve plaintiff with a certificate of non-concurrence and proposed order and failed to seek his concurrence as required by Local Rules 7.1 and 7.2,¹ and it appearing that defendants have filed a motion to dismiss (Doc. 32), and that plaintiff has not demonstrated that he is entitled to default judgment, see FED. R. CIV. P. 55(a) (providing that default shall be entered "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend"); see also FED. R. CIV. P. 55(e) ("No judgment by default shall be entered against the United States or an officer or agency thereof unless the claimant

¹ Plaintiff also requests that the court strike defendants' second motion to dismiss. Given the instant motion and plaintiff's opposition to defendants' first motion to dismiss (see Docs. 15-17, 20-21, 24-25), the court is satisfied that plaintiff does *not* concur in defendants' second motion to dismiss and will therefore deny plaintiff's request to strike it.

establishes a claim or right to relief by evidence satisfactory to the court."), it is hereby ORDERED that the motion (Doc. 36) is DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge